

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 05-10019-RGS
)	
DANIEL W. McELROY,)	
AIMEE J. KING McELROY, and)	
XIEU VAN SON)	
)	
)	

**MOTION OF DEFENDANTS, DANIEL W. MCELROY AND
AIMEE J. KING MCELROY, TO DISMISS COUNTS TWO THROUGH
FOUR BECAUSE THE ALLEGED MAILINGS WERE NOT IN
FURTHERANCE OF A SCHEME TO DEFRAUD**

Defendants, Daniel W. McElroy (“Mr. McElroy”) and Aimee J. King McElroy (“Ms. King”) move this Court to dismiss Counts Two through Four of the Indictment because the mailings alleged in Counts Two through Four were not made in furtherance of a scheme to defraud as required to support a charge of mail fraud pursuant to 18 U.S.C. §1341. In further support of this Motion, Mr. McElroy and Ms. King incorporate their Memorandum of Law filed simultaneously herewith.

Respectfully submitted,

AIMEE J. KING McELROY

By her Attorney,



Jack I. Zalkind(BBO #538840)
One International Place, 18th Floor
Boston, Massachusetts 02110
Telephone: (617) 227-3950
Facsimile: (617) 342-6899

DATED: June 30, 2005

DANIEL W. McELROY

By his Attorneys,



Stephen R. Delinsky (BBO #119120)
Andrew R. McConville (BBO #632804)
ECKERT, SEAMANS, CHERIN & MELLOTT, LLC
One International Place, 18th Floor
Boston, Massachusetts 02110
Telephone: (617) 342-6800
Facsimile: (617) 342-6899